

Occupational Safety and Health Review Commission

§ 2201.4

§ 2201.1 Purpose of scope.

This part prescribes procedures to obtain information and records of the Occupational Safety and Health Review Commission under the Freedom of Information Act, 5 U.S.C. 552. It applies only to records or information of the Commission or in the Commission's custody. This part does not affect discovery in adversary proceedings before the Commission. Discovery is governed by the Commission's Rules of Procedure in 29 CFR part 2200, subpart D.

§ 2201.2 Description of agency.

The Occupational Safety and Health Review Commission (OSHRC or Commission) adjudicates contested enforcement actions under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651-678. The Commission decides cases after the parties are given an opportunity for a hearing. All hearings are open to the public and are conducted at a place convenient to the parties by an Administrative Law Judge. Any Commissioner may direct that a decision of a Judge be reviewed by the full Commission.

§ 2201.3 Delegation of authority.

The Freedom of Information Act Officer is delegated the authority to act upon all requests for public records. In the absence of the Freedom of Information Act Officer, the Chairman or the Executive Director may designate another Commission officer or employee, such as the General Counsel or the Executive Secretary, to respond to requests. Copies of individual Commission decisions may be obtained directly from the Freedom of Information Act Officer at the Commission's national office. See § 2201.5(a). All other information requests shall be directed to the Freedom of Information Act Officer. See § 2201.6(b).

[61 FR 14025, Mar. 29, 1996]

§ 2201.4 General policy.

(a) *Non-exempt records available to public.* Except for records and information exempted from disclosure by 5 U.S.C. 553(b) or published in the FEDERAL REGISTER under 5 U.S.C. 552(a)(1), all records of the Commission or in its custody are available to any person

who requests them in accordance with § 2201.6. Records include any information that would be a record subject to the requirements of 5 U.S.C. 552 when maintained by the Review Commission in any format, including electronic format. In searching for records, the Review Commission will look for records manually or by automated means. The Review Commission will search for records in their electronic form and in hard copy form, in response to FOIA requests, except when such searching would significantly interfere with the operation of the Commission's automated information system.

(b) *Examination of records in cases appealed to courts.* A final order of the Commission may be appealed to a United States Court of Appeals. When this occurs, the Commission may send part or all of the official case file to the court and may retain other parts of the file. Thus, a document in a case may not be available from the Commission but only from the court of appeals. In such a case, the Freedom of Information Act Officer may inform the requester that the request for a particular document should be directed to the court.

(c) *Record availability.* The records of Review Commission activities are publicly available for inspection and copying at the OSHRC Information Office, 1120 20th St., NW, 9th Floor, Washington, DC. These records include:

(1) Final opinions including concurring and dissenting opinions as well as orders issued as a result of adjudication of cases.

(2) OSHRC Rules of Procedure and Guides to those procedures.

(3) Copies of records that have been released to a person under the Freedom of Information Act (FOIA) that, because of the subject matter, the Review Commission determines that the records have become or are likely to become the subject of subsequent requests for substantially the same records.

(4) A general index of records released under the FOIA.

(d) Materials created on or after November 1, 1996 under paragraphs (c) (1), (2), (3) and (4) of this section may also be accessed through the Internet at the